

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CHI LIN,	§	
	§	
Petitioner,	§	
	§	
VS.	§	CIVIL ACTION NO. H-07-2992
	§	
MICHAEL CHERTOFF, <i>et al.</i> ,	§	
	§	
Respondents	§	

ORDER

The petitioner's motion to reconsider and vacate judgment, amend judgment, or grant new hearing, filed under Rule 52(B) of the Federal Rules of Civil Procedure, is denied.

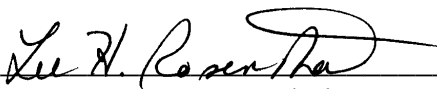
On November 30, 2005, an immigration judge denied the petitioner's application for asylum and ordered his removal from the United States to China. That decision was affirmed by the Board of Immigration Appeals on March 20, 2006. The petitioner filed a motion to stay removal with the Fifth Circuit Court of Appeals. The Fifth Circuit granted the motion for stay on March 16, 2006 and denied the petitioner's petition for review on September 24, 2007.

When an alien is ordered removed, the Attorney General must remove the alien within a period of 90 days under 8 U.S.C. § 1231(a)(1)(A). If an alien's removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the 90-day removal period begins on the date of the court's final order. 8 U.S.C. § 1231(a)(1)(B)(ii). The petitioner filed his petition for writ of habeas corpus before the expiration of the 90-day period.

The record also shows that the petitioner will be removed from the United States in the reasonably foreseeable future. The petitioner is scheduled to be removed on February 13, 2008 on Continental flight 89 from Houston Intercontinental Airport to Beijing, China via Newark, New Jersey. No claim for relief is present under *Zadvydas v. Davis*, 533 U.S. 678 (2001).

The petitioner's Motion to Reconsider and Vacate Judgment, Amend Judgment or Grant New Hearing Pursuant to F.R.C.P. 52(B) is denied.

SIGNED on February 8, 2008, at Houston, Texas.



Lee H. Rosenthal
United States District Judge